

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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The status of an appeal may be found on court access websites at:

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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DAVID S. SIMMS,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: **ORDER 0008425**

Division of Legal Services and Compliance Case No. 20 RSG 011

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

David S. Simms
Milwaukee, WI 53224

Department of Safety and Professional Services
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent David S. Simms (Birth Year 1998) is permitted by the State of Wisconsin as a private security person, having permit number 60985-108, first issued on June 25, 2018 and current through August 31, 2024. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Milwaukee, Wisconsin 53224.

2. On November 23, 2020, the Division of Professional Credential Processing (DPCP) informed the Division of Legal Services and Compliance (DLSC) that it had discovered a conviction on Respondent's record while processing Respondent's renewal application. DLSC subsequently opened Case Number 20 RSG 011 for investigation.

3. On July 28, 2019, Respondent was arrested for retail theft.

4. On September 19, 2019, Respondent was found guilty of retail theft, an ordinance violation in Mid-Moraine Municipal Court, Citation No. C98097RB23.

5. Respondent did not report this conviction to the Department.

6. On July 22, 2020, Respondent applied to renew his credential. Respondent responded “No, I do not have pending charges and/or convictions” to the following application question:

“Since your last renewal or initial licensure (if this is your first renewal), do you have any pending charges, and/or have you violated any federal or state laws, or any local ordinances (does not include minor traffic violations that do not involve alcohol or drugs...)?”

7. On January 22, 2021, the Department sent a letter to Respondent to request his response to the complaint.

8. On February 5, 2021, Respondent emailed the Department and stated that he had been unaware of the requirement to report convictions to the Department.

9. On April 22, 2021, the Department issued Respondent a limited permit to address the conviction.

10. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Department of Safety and Professional Services has jurisdiction to act in this matter pursuant to Wis. Stat. § 440.26(6), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent engaged in conduct reflecting adversely on his professional qualification pursuant to Wis. Admin. Code § SPS 35.01(2) by violating a law the circumstances of which substantially relate to the practice of a private security person, and by failing to send to the Department within 48 hours after the judgment of conviction information which describes the nature of the conviction.

3. By the conduct described in the Findings of Fact, Respondent engaged in conduct reflecting adversely on his professional qualification pursuant to Wis. Admin. Code § SPS 35.01(17) by providing false information in the application for a credential.

4. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 440.26(6)(a)1., 2., 3., and 4. and Wis. Admin. Code § 35.01.

ORDER

1. The attached Stipulation is accepted.

2. Respondent David S. Simms's private security person permit (no. 60985-108) is hereby SUSPENDED for fifteen (15) business days, beginning ten (10) calendar days from the date of this Order.

3. Within ninety (90) days from the date of this Order, Respondent David S. Simms shall pay the COSTS of this matter in the amount of \$384.

4. All submissions, including payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Submissions may also be made online at: <https://dspsmonitoring.wi.gov/>

5. In the event Respondent violates any term of this Order, Respondent's permit (number 60985-108), or Respondent's right to renew his permit, may, in the discretion of the Department or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Department may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

6. This Order is effective on the date of its signing.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

by: Aloysius Rohmeyer
A Member of the Department

March, 10, 2023
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DAVID S. SIMMS,
RESPONDENT.

:
:
:
:
:

STIPULATION

ORDER 0008425

Division of Legal Services and Compliance Case No. 20 RSG 011

Respondent David S. Simms and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

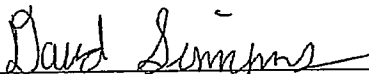
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:
 - the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
 - the right to confront and cross-examine the witnesses against Respondent;
 - the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
 - the right to testify on Respondent's own behalf;
 - the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
 - the right to petition for rehearing; and
 - all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Department of Safety and Professional Services (Department). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the

Stipulation is not accepted by the Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Department ever assigned as an advisor in this investigation may appear before the Department in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Department may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Department should accept this Stipulation and issue the attached Final Decision and Order.

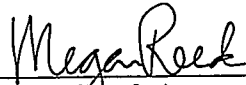
7. Respondent is informed that should the Department adopt this Stipulation, the Department's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending the Department adopt this Stipulation and issue the attached Final Decision and Order.



David S. Simms, Respondent
Milwaukee, WI 53224
Credential No. 60985-108

02/03/23
Date



Megan Reed, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

02/16/2023
Date